

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed March 17, 2008. Claims 6, 7, 13, and 14 are cancelled and claims 1, 8, 12, 17, and 18 are amended. Claims 1-5, 8-12, and 15-18 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. Obviousness Type Double Patenting Rejection

In the Office Action, the Examiner rejects claims 1, 4, 5, 7, 8, 12, 14, and 17 under the judicially created doctrine of obviousness-type double patenting in view of Application Serial No. 08/642,330. Applicants submit herewith a terminal disclaimer relative to Application Serial No. 08/642,330 in order to overcome this rejection. Withdrawal of this rejection and allowance of the pending claims is respectfully requested in view of the terminal disclaimer.

II. Allowed Subject Matter

The Examiner has indicated that claims 7, 8, and 14 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants have rewritten claim 1 to represent claim 7 in an independent format and have rewritten claim 12 to represent claim 14 in independent format so as to include all of the limitations of the base claim. In particular, the scope of claims 1 and 12 have not been narrowed in any way from that previously presented in claims 7 and 14 so as to overcome any prior art, but has merely been rewritten in an independent format. As acknowledged by the Examiner, those

claims are patentably distinct from the prior art, and are now in condition for allowance. Moreover, for at least the same reason, claims now depending from claims 1 and 12 – namely, claims 2-5, 8-11, 15 and 16 – are also in a condition for allowance.

III. PRIOR ART REJECTIONS

A. Rejection Under 35 U.S.C. §102(b/e)

The Examiner rejects claims 1-3, 6, 10-13, 15 and 16 under 35 U.S.C. § 102(b) as being anticipated by *Hauge* (United States Patent No. 4,949,252). The Examiner rejects claims 1, 4, 5, 9-13, and 15-18 under 35 U.S.C. § 102(e)¹ as being anticipated by *Tricka et al.* (United States Patent No. 6,453,345 B2). Regarding claims 1-5, 8-12, and 15-16 the Applicant respectfully cites to the remarks above regarding those claims.

Claim 17 includes the element, “wherein the hardware circuitry is provided with a first set of specified time intervals to create a coarse index and with a second set of time intervals to create a fine index.” The applicant respectfully requests that the rejection of claim 17 be withdrawn as the references fail to teach or suggest at least this element of claim 17. Claim 18 depends from claim 17. Therefore, the Applicant respectfully requests that the rejection of claim 18 be withdrawn at least for the same reasons as claim 17.

¹ Because *Tricka* is only citable under 35 U.S.C. § 102(e) Applicants do not admit that *Tricka* is in fact prior art to the claimed invention but reserve the right to swear behind *Tricka* if necessary to remove it as a reference.

CONCLUSION

In view of the foregoing, Applicants believe the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 22nd day of April, 2008.

Respectfully submitted,

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